

**ASSEMBLY BILL**

**No. 1109**

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**Introduced by Assembly Member Bonilla**

February 22, 2013

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An act to amend Section 50515.2 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1109, as introduced, Bonilla. Affordable housing.

Existing law authorizes the Department of Housing and Community Development to provide technical assistance to groups and persons with various housing needs and to administer various housing loan programs, including the Joe Serna, Jr. Farmworker Housing Grant Program.

This bill would make technical, nonsubstantive changes to a provision of the Joe Serna, Jr. Farmworker Housing Grant Program.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 50515.2 of the Health and Safety Code
- 2 is amended to read:
- 3 50515.2. (a) Notwithstanding any other law, the department
- 4 may extend the term of an existing multifamily housing loan made
- 5 by the department under the original Rental Housing Construction
- 6 Program established by Chapter 9 (commencing with Section
- 7 50735), the Special User Housing Rehabilitation Program
- 8 established by Section 50670, or the Deferred Payment
- 9 Rehabilitation Loan Program established by Chapter 6.5

(commencing with Section 50660) upon the request of any borrower subject to the following conditions:

(1) The borrower shall provide to the department a complete report showing all existing tenants, their incomes, as reported in the most recent annual income certification, and the rents currently charged to each tenant.

(2) The borrower shall agree to an extension of the term of the loan by an additional 55 years from the date of departmental approval. If the department determines that the remaining useful life of a project is less than 55 years, the loan may be extended for the remaining useful life of the project, but not less than 30 years. The department may convert the existing outstanding principal and any accrued interest into the new loan amount. The interest rate on the extended term shall be 3 percent simple interest. All future payments of principal and interest may be deferred except for a percentage of interest equal to the percentage charged in the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675)) for the department's ongoing monitoring and management responsibilities.

(3) The borrower shall agree to amend or replace the existing regulatory agreement to include terms generally equivalent to those used in the Multifamily Housing Program. In addition, the borrower shall agree to replace, amend, or revise any other loan document as necessary to accomplish the purposes of this section.

(4) (A) The borrower shall agree to a rent schedule that ensures that all assisted units are affordable to households earning no more than 60 percent of the area median income and that at least 35 percent of all assisted units shall be reserved for, affordable to, and occupied by, households earning less than or equal to the midlevel target used by the Multifamily Housing Program, unless the department finds both of the following:

(i) That the project income is insufficient to maintain fiscal integrity, as that term is used in the Multifamily Housing Program, and is insufficient to maintain the rents required under this subparagraph pursuant to the terms of the Uniform Multifamily Regulations, or any successor regulations, except that commercial vacancy loss shall be projected based on the operating history of the project, commercial vacancy rates in the neighborhood, and similar factors typically used by commercial lenders.

1 (ii) That the borrower has exhausted all available potential  
2 sources of rental subsidies, including, but not limited to, federal,  
3 state, and local funds.

4 (B) If the department finds that a reduction in the percentage  
5 of assisted units to less than 35 percent of assisted units is justified,  
6 it shall ensure that the largest possible percentage is reserved for  
7 the targeted households.

8 (C) For the purposes of this paragraph, “midlevel target used  
9 by the Multifamily Housing Program” ~~shall mean~~ *means* the  
10 following:

11 (i) For counties with an area median income of 110 percent or  
12 less of the state median income, ~~it shall mean~~ households earning  
13 30 percent of state median income, expressed as a percentage of  
14 area median income.

15 (ii) For counties with an area median income that exceeds 110  
16 percent of the state median income, ~~it shall mean~~ households  
17 earning less than 35 percent of state median income, expressed as  
18 a percentage of area median income.

19 (5) ~~No~~ A tenant residing in a project at the time of an extension  
20 authorized by this section may *not* be displaced as a result of the  
21 regulatory revisions authorized by this section, and, for the initial  
22 operating year after approval of the extension, that tenant may not  
23 have his or her rent increased above the amounts specified in his  
24 or her preexisting regulatory agreements, except that no tenant  
25 may pay less than 30 percent of his or her income, calculated  
26 pursuant to the Multifamily Housing Program criteria. If a rent  
27 increase authorized under this section would exceed a 10 percent  
28 increase in payment for a lower income tenant, the project owner  
29 shall phase in the increase so that it does not exceed 10 percent  
30 per year. After the initial operating year after the extension  
31 authorized under this section, the rents for all regulated units that  
32 are subject to the new agreement may be adjusted in the percentage  
33 calculated pursuant to the Multifamily Housing Program criteria,  
34 plus the amount necessary to bring an individual tenant up to the  
35 30-percent-of-income standard, provided that the total annual  
36 increase does not exceed 10 percent. Rent adjustments for all  
37 tenants occupying assisted units at the time of the extension shall  
38 be based on the tenant’s initial rent established under this  
39 paragraph. Upon vacancy of an assisted unit occupied at the time  
40 of the extension, the new base rent for that unit shall be established

1 consistent with the standards used in the Multifamily Housing  
2 Program for the regulated income band, subject to the reservation  
3 of units required under paragraph (4).

4 (b) The department may approve an extension of a loan made  
5 by the department if it determines that the project has, or will have,  
6 after rehabilitation or repairs, a potential remaining useful life of  
7 at least 30 years and that the project is deemed financially feasible  
8 pursuant to the terms of its Uniform Multifamily Regulations or  
9 successor regulations.

10 (c) The department may subordinate its loan or loans to refinance  
11 existing senior debt and to additional permanent financing if that  
12 additional senior debt is used only for rehabilitation, repairs, or  
13 improvements, or both, including related soft costs, that are modest  
14 in size, scope, and cost, as determined by the department and  
15 necessary to maintain and extend the useful life of the project.

16 (d) (1) For the purposes of this subdivision, the “agency  
17 projects” are the 26 projects assisted through the original Rental  
18 Housing Construction Program with funds administered by the  
19 California Housing Finance Agency.

20 (2) Upon the request of a borrower the agency may extend the  
21 term of an existing loan for an agency project by a period that is  
22 equal to the remaining useful life of the project, as determined by  
23 the agency, but not more than 55 years and not less than 30 years  
24 from the date of agency approval, under terms that are substantially  
25 consistent with the purposes of this section, if all of the following  
26 conditions are met:

27 (A) The borrower shall provide to the agency the report  
28 described in paragraph (1) of subdivision (a).

29 (B) The extension shall be subject to the conditions set forth in  
30 paragraph (2) of subdivision (a).

31 (C) The rent levels and tenant protections described in  
32 paragraphs (4) and (5) of subdivision (a) shall be satisfied, except  
33 that the agency, not the department, shall make the determination  
34 required under clause (i) of subparagraph (A) of paragraph (4) of  
35 subdivision (a) that the project income is insufficient to meet the  
36 agency’s affordable multifamily lending program requirements.

37 (3) Any determination or approval under this section regarding  
38 the agency projects shall be by the agency rather than the  
39 department.

1 (4) The borrower and the agency shall amend, replace, or revise  
2 any other loan documents or agreements governing the loans for  
3 the agency projects as necessary to accomplish the purposes of  
4 this section.

5 (5) All funds received by the agency for the agency projects,  
6 whether by loan repayment, foreclosure, accrued interest, or  
7 otherwise, shall be used to provide assistance to existing or future  
8 projects financed by or through the agency pursuant to terms  
9 consistent with the agency's affordable multifamily lending  
10 programs.

11 (e) It is the intent of the Legislature in enacting this section that  
12 the department should manage its reserves for the original Rental  
13 Housing Construction Program in a manner that will allow for the  
14 continuation of current benefits to current low-income tenants for  
15 the longest period of time possible. Accordingly, rent subsidies  
16 shall be continued only for units occupied by lower income tenants  
17 who were in residence at the time of the extension authorized under  
18 this section.

19 (f) It is the intent of the Legislature in enacting this section to  
20 provide to the department the flexibility necessary to preserve the  
21 affordable rental units for which the state has already made a  
22 significant public investment. Accordingly, the department may  
23 implement this section through guidelines that shall not be subject  
24 to Chapter 2.5 (commencing with Section 11340) of Part 1 of Title  
25 2 of the Government Code.

26 (g) This section shall become operative on July 1, 2008.

27 (h) This section shall not apply to loan extensions and senior  
28 debt subordinations executed by the department and recorded after  
29 the effective date of the guidelines adopted by the department  
30 pursuant to subdivision (h) of Section 50560.